ADULT GUARDIANSHIP ACT
PART 3

Support and Assistance for Abused and Neglected Adults

A GUIDE *for* COMMUNITIES

This legislation comes into force on February 28, 2000

REVISED JANUARY 2000

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Adult Guardianship Act Part 3
Support and Assistance for Abused and Neglected Adults
A Guide for Communities

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PART I: INTRODUCTION

1. WHAT'S NEW?

1.1 New laws about adults and decision-making

British Columbia has four new laws that affect adults who may be unable to make decisions for themselves about such things as health care, living conditions, financial matters, legal affairs and personal safety. These new laws are:

- *The Adult Guardianship Act*
- *The Health Care (Consent) and Care Facility (Admission) Act*
- *The Representation Agreement Act*
- *The Public Guardian and Trustee Act*

This guide focuses on Part 3 of the *Adult Guardianship Act*: Support and Assistance for Abused and Neglected Adults. ("Neglect" includes "self-neglect".)

The purpose of Part 3 is:

> **. . . to provide for support and assistance for adults who are abused or neglected and who are unable to seek support and assistance because of:**
> **(a) physical restraint**
> **(b) a physical handicap that limits their ability to seek help; or**
> **(c) an illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect.(s.44)**

1.2 What Part 3 of the *Adult Guardianship Act* means to you

If you have been involved in responding to the abuse, neglect or self-neglect of adults, you will know that several factors contribute to making your work challenging:

- there are no generally accepted principles that can guide people and agencies in the delivery of services
- there is a lack of agreement on definitions of words like "abuse" and "neglect"
- mandates are not always clear, therefore people and agencies are not always certain about their roles
- there is a lack of procedures to use when informal mechanisms are not enough and formal intervention becomes necessary

> 🗁 In many communities, when an adult is neglecting himself by not eating properly, a meal service may be provided.
>
> The new law may now call this "support and assistance", but the service will not change.

Part 3 of the *Adult Guardianship Act* addresses these issues by:

- providing principles to guide our actions
- involving the people most affected, and their supporters
- providing definitions and promoting awareness about abuse, neglect and self-neglect of adults
- informing people where to report abuse, neglect and self-neglect
- encouraging cooperation and coordination to eliminate duplication of efforts and gaps in services
- fostering the development of protocols to clarify roles, and
- providing the tools to use when more formal intervention is necessary.

2. USING THIS GUIDE

2.1 Who this guide is for

If you or your organization have a role or interest in abuse, neglect or self-neglect of adults, this guide is for you.

2.2 The structure of this guide

This guide is in four parts:

Part I: Introduction gives a brief overview of the Act and this guide.

Part II: The New Law describes the features of Part 3 of the Act, including:

- guiding principles
- where it applies
- what is meant by abuse, neglect and self-neglect

Part III: The Process describes the basic steps to be taken when there is a report that an adult is being abused, neglected or self-neglected. It reflects current practice.

Part IV: The People Who Support the Process describes how community organizations, agencies and individuals will work together in Community Response Networks, using protocols to define responsibilities. It also describes how designated agencies will fulfill certain roles.

The appendices give more detail about: **Dealing with Emergencies, Reporting Criminal Offences, Assessments of Incapability, Getting a Court Order, Obtaining and Disclosing Information, The Role of the Public Guardian and Trustee,** and suggests a form for a **Support and Assistance Plan.**

Certain information appears in boxes:

- ☑ indicates especially important information
- 🗁 indicates a person's story
- 🕮 indicates a definition

PART II: THE NEW LAW

3. GUIDING PRINCIPLES AND PRESUMPTIONS

3.1 Principles to guide our actions

3.1.1 SELF-DETERMINATION AND CHOICE

The *Adult Guardianship Act* states:

s.2(a) All adults are entitled to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are capable of making decisions about those matters.

> Mr. Campbell, 80, has not fully recovered from a stroke. He lives with his son, Tim, who is his primary caregiver. After a report from the home support worker, an inquiry finds that Tim is physically and financially abusing his father. Mr. Campbell is protective of Tim, though he appears afraid of him and seems to want some help.
>
> The decision about what assistance to offer Mr. Campbell will be guided by the principles of the new Act.

Adults may choose to stay in an abusive situation and to decline assistance that is offered. They may choose to neglect themselves, but if an adult is thought to be incapable of making that decision, then Part 3 of the Act determines how and when support and assistance may be provided.

3.1.2 MOST EFFECTIVE BUT LEAST INTRUSIVE SUPPORT

The *Adult Guardianship Act* states:

s.2(b) All adults should receive the most effective, but least restrictive and intrusive, form of support, assistance or protection when they are unable to care for themselves or their assets.

> Mrs. Stephens is an elderly woman with a history of mental illness, living alone. A visiting public health nurse finds her unconscious on the floor. She seems to have been going without proper food and has not been paying her rent. She demands to be left alone.
>
> The new Act guides those who are in a position to work with Mrs. Stephens to develop a plan to assist her.

The assistance that you offer should be as much as the situation requires, without intruding unnecessarily. The goal is to promote the adult's safety, while honouring personal choices. Adults should be offered a range of choices that respect their right to independence.

3.1.3 COURT IS A LAST RESORT

The *Adult Guardianship Act* states:

s.2(c) The court should not be asked to appoint, and should not appoint, decision-makers or guardians unless alternatives, such as the provision of support and assistance, have been tried or carefully considered.

Going to court to ask for a committee (or decision-maker or guardian) should be the very last resort.[1] First, you must look carefully at all the other available options. In many cases, individuals close to the adult will be able to provide the information, support and practical assistance that can make a court application unnecessary.

3.2 Important presumptions

3.2.1 ADULTS ARE PRESUMED CAPABLE

☑ You must start with the presumption that adults can make decisions for themselves.

The *Adult Guardianship Act* states:

s.3(1) Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about personal care, health care, legal matters or about the adult's financial affairs, business or assets.

Often an adult who is having difficulty can be assisted in making a decision. Sometimes a person just needs extra time or more information. A chance to talk to someone who is familiar and trusted may make a difference. Those offering support and assistance should always look first to the adult to identify natural and informal networks of friends and family, to see if needs can be met informally.

An adult's capability may vary from day to day or from one area of decision-making to another. A person may be capable of understanding to a certain degree of complexity, but not beyond. For example, someone may be able to make personal and health care decisions, but have difficulty managing money. The ability to make decisions may depend on whether a friend or family member or other advocate can give the support the adult needs.

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[1] Part 2 of the *Adult Guardianship Act* provides for the appointment of decision-makers or guardians by the court. This part of the Act will not come into force at this time.

3.2.2 DIFFERENT WAYS OF COMMUNICATING

The *Adult Guardianship Act* states that an adult's way of communicating with others is not grounds for deciding that he or she is incapable of making decisions. (s.3(2))

A method of communication that suits the person's needs must be used. This may mean using an interpreter, special equipment or a person who knows the adult.

4. WHERE THIS LAW APPLIES

4.1 Part 3 of the Act only applies to certain adults

Part 3 of *the Adult Guardianship Act* does not apply to every adult. It only applies to adults who are:

- abused, neglected or self-neglected, and
- unable to seek assistance for one of the following reasons:
  - **a physical restraint**: the adult is being stopped by force or other physical means from seeking assistance
  - **a physical handicap that limits their ability to seek assistance**: this could include a lack of mobility, difficulty in communicating, or any other physical restriction which can hinder an adult in asking for assistance, or
  - **an illness, disease, injury or other condition that affects decision-making ability**: this might include mental illness, developmental disability or brain injury. (s.44)

4.2 The places where Part 3 applies

Part 3 of the *Adult Guardianship Act* applies to abuse, neglect or self-neglect of an adult in:

- a public place
- the adult's home
- a care facility, or
- any other place **except** a correctional center. (s.45(1))

4.3 When Part 3 does not apply

> Ann Smith has a representation agreement and has told her representative to refuse life-supporting care and treatment if she is ever in a situation with no hope of regaining consciousness. Because of the rights set out in the *Health Care (Consent) and Care Facility (Admission) Act*, this would not be considered a case of neglect or self-neglect, but rather the honouring of pre-expressed wishes.

A refusal of treatment, where that refusal could result in death, might be considered neglect or self-neglect. But under the *Health Care (Consent) and Care Facility (Admission) Act* a capable adult has a right to refuse consent to health care for religious, moral or any other reasons, even if that decision may result in death. This applies to decisions made by another on behalf of an adult, providing the substitute decision is in keeping with the adult's wishes, beliefs or values.

Nothing in Part 3 of the *Adult Guardianship Act* takes away this right.

5. DEFINITIONS

5.1 Abuse

Abuse means deliberate mistreatment of an adult that causes the adult:

- physical, mental, or emotional harm, or
- damage to or loss of assets

and includes intimidation, humiliation, physical assault, sexual assault, over-medication, withholding needed medication, censoring mail, invasion or denial of privacy or denial of access to visitors. (s.1)

Abuse can take many forms. Some examples are:

- **physical abuse**: acts of violence or rough treatment, including slapping, shaking, punching or rough handling
- **mental or emotional abuse** (also referred to as psychological abuse): severe and continuing intimidation, humiliation, isolation and exclusion from events, activities and decision-making
- **sexual abuse**: any unwanted or exploitive sexual behaviour, including harassing, assaulting or using adults for sexual purposes without their consent
- **financial abuse**: misusing an adult's money and property, including taking money, property or possessions by coercion; influencing the making of a will; cashing cheques without authorization; using bank accounts without authorization; or misusing a power of attorney or representation agreement
- **medication abuse**: withholding medication that the adult needs or giving too much or too little medication
- **violation of entitlements**: censoring mail, invading or denying privacy, denying access to visitors, restricting the movement of an adult, or withholding information to which the adult is entitled.

5.2 Neglect

Neglect means any failure to provide necessary care, assistance, guidance or attention to an adult that causes the adult, or is reasonably likely to cause within a short time:

- serious physical, mental or emotional harm, or
- substantial damage to or loss of assets.

Neglect includes self-neglect. (s.1)

Neglect may or may not be deliberate. It can be, for example, the intentional withholding of food and personal care. Or it can be unintentionally caused by lack of experience, information, knowledge or support.

5.3 Self-Neglect

Self-neglect means any failure of an adult to take care of himself or herself that causes, or is reasonably likely to cause within a short time:

- serious physical or mental harm, or
- substantial damage to or loss of assets,

and includes:

* living in grossly unsanitary conditions
* suffering from an untreated illness, disease or injury
* suffering from malnutrition to such an extent that, without intervention, the adult's physical or mental health is likely to be severely impaired
* creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of assets
* suffering from an illness, disease or injury that results in the adult dealing with his or her assets in a manner that is likely to cause substantial damage to or loss of the assets. (s.1)

PART III: THE PROCESS

6. OVERVIEW: HOW PART 3 WILL WORK

6.1 How the legislation will help

Part 3 of the *Adult Guardianship Act*: Support and Assistance for Abused and Neglected Adults comes into force on February 28, 2000. This legislation largely reflects the current practice of offering abused and neglected adults support and assistance. It also contains some new tools for dealing with emergencies, and situations where adults are thought to be incapable, and are refusing assistance.

This brief outline will give you information on how Part 3 of the *Adult Guardianship Act* will work. For more details on each step, please refer to the sections that follow.

6.2 Receiving and handling reports

If a designated agency receives information about possible abuse, neglect or self-neglect of an adult, it **must**:

- look into the situation
- involve the adult as much as possible
- report criminal offences to the police

Designated agencies **may** also:

- deal with emergencies
- involve supportive family and friends
- offer any assistance that may be needed
- inquire further if the adult appears to be abused, neglected or self-neglected, refuses assistance and appears to be mentally incapable of deciding not to accept the assistance.

📖 A designated agency is a public body, organization or person designated by the Public Guardian and Trustee[2] to respond to adult abuse, neglect and self-neglect

☑ **Role of the Police** The police have a role in responding to reports of abuse and neglect. See Appendix 2

[2] When the legislation comes into force on February 28, 2000, the Public Trustee will become the Public Guardian and Trustee.

6.3 The next step

After further inquiry, as appropriate, a designated agency may:

- take no further action
- refer the adult to available resources
- report the situation to the Public Guardian and Trustee
- assist the adult if he wishes to have a representative
- apply to court for an order temporarily protecting the adult from the abuser
- prepare a support and assistance plan

☑ Role of the Public Guardian and Trustee
See Appendix 6 for details of the Public Guardian and Trustee's role.

6.4 When help is declined

When an abused, neglected or self-neglected adult declines assistance and seems incapable of making that decision, a designated agency may:

- consider the reasons the support and assistance was declined
- ask that the Public Guardian and Trustee arrange for an assessment of incapability
- provide any necessary support following an assessment
- apply to the court for authority to implement the support and assistance plan, obtain maintenance, or protect the adult

7. REPORTING

7.1 Letting the community know where to report

A list of designated agencies and contact information will be posted on the Public Trustee's website in February, 2000.

> 🕮 **A Community Response Network** is a network of individuals, groups and agencies who work together at the community level to promote a coordinated response to abuse, neglect and self-neglect. (See Part IV of this guide)

7.2 Protecting those who report

People who report adult abuse or neglect are protected in a number of ways.

> 🗁 A person who is alleged to be abusing an adult calls the designated agency and demands to know who reported the abuse. "I know who it was anyway – just tell me it was my brother Bob", he says. Even if the caller is correct, the agency must say nothing that could disclose the identity of the reporter.

7.2.1 CONFIDENTIALITY

A designated agency that receives a report must treat the report as strictly confidential. This includes the name of the person who reports and any information that would identify that person.

7.2.2 IMMUNITY FROM LEGAL ACTION

The Act says that no action for damages may be brought against a person for making a report or for assisting in an inquiry, unless the person made the report falsely and maliciously. (s. 46(3))

7.2.3 EMPLOYMENT PROTECTION

The Act says no one may:

- refuse to employ, or refuse to continue to employ a person
- threaten dismissal or otherwise threaten a person
- discriminate against a person with respect to employment or a term or condition of employment or membership in a profession or trade union, or
- intimidate, coerce, discipline or impose a financial or other penalty on a person

for making a legitimate report of adult abuse or neglect, or for assisting in an inquiry. (s.46(4))

An employer who does fire or discipline a person who reports abuse or neglect commits an offence.

This protection will be especially important to people who work in care facilities, hospitals and other situations where they come into contact with adults who may not be able to protect themselves.

8. RECEIVING AND HANDLING REPORTS

8.1 Looking into the report

The *Adult Guardianship Act* states that a designated agency **must** determine whether an adult needs support and assistance if the agency:

- receives a report under section 46,
- has reason to believe that an adult is abused, neglected or self-neglected, or
- receives a report that the adult's representative, decision-maker, guardian or monitor has been hindered from visiting or speaking with the adult. (s.47(1))

When a designated agency hears about possible abuse, neglect or self-neglect of an adult, the agency normally does some initial checking to find out whether the adult needs assistance. Usually this can be accomplished through discussions with the person making the report and the adult, and possibly some follow-up telephone calls to others.

For information about obtaining and disclosing information see Appendix 5.

☑ **Emergencies**: At this initial stage, or at any stage in the process, you might discover an emergency that demands immediate action. For the procedure to follow in emergency situations, see Appendix 1: Dealing with Emergencies.

8.1.1 GUIDELINES FOR LOOKING INTO THE REPORT

1. **Use the guiding principles of the legislation** to guide your actions.
2. **If possible, talk directly with the adult.** You do not have to meet face-to-face at this stage, but it is preferable. In any case, your discussion should not take place in the presence of someone suspected of abusing or neglecting the adult.
3. **Find out from the adult if there are trusted people** who might help, including advocates and service providers, and get the adult's permission to speak to them.
4. **Find out if the adult has a representation agreement or a court-appointed committee**[3]. You might ask the adult, a friend, a family member, a health care provider, or the Public Guardian and Trustee.
5. **A designated agency should record details** of the report and steps taken.

☑ An adult who is being abused can be at even greater risk after the abuser becomes aware that a report has been made. Take care to ensure that by contacting the adult you do not place him or her in greater danger.

[3] A committee is the name for a court appointed substitute decision maker. These appointments are made by the Supreme Court of British Columbia under the *Patient's Property Act*. They can relate to a person's estate (property and legal affairs) or their person (personal care including health care) or both. When Part 2 of the *Adult Guardianship Act* comes into effect, the *Patient's Property Act* will be repealed. The system of committeeship will be replaced by a system of guardianship. The court will be able to appoint decision-makers or guardians for an adult.

8.2 Does the adult need support and assistance?

- If the person does not seem to need any assistance, the designated agency must take no further action.
- The adult may need a referral to health care or social, legal, residential or other services. The designated agency may assist the adult in obtaining support services.
- The designated agency may also inform the Public Guardian and Trustee if it appears that the adult may benefit from the appointment of a committee or if a representative is not fulfilling the responsibilities set out in the representation agreement.

> 🕮 A representation agreement is an agreement made under the new *Representation Agreement Act* by which an adult chooses someone to make decisions about personal care, health care, financial or legal matters if he should become incapable sometime in the near future.

- If the adult accepts the assistance that is offered, the agency may play a supportive role but may not have to take any further steps in this process.
- If the adult does not accept the assistance that is offered, and the designated agency suspects that the adult is abused, neglected or self-neglected and is mentally incapable of declining support and assistance, it may inquire further into the situation.

8.3 The inquiry: finding the facts

The Act uses the word *investigation*, but this is not the same as a police investigation. It is the kind of inquiry or fact-finding process that an agency carries out when there is a need to learn more about a situation.

8.3.1 WHEN TO CONDUCT AN INQUIRY

A designated agency may inquire further if it determines that the adult needs support and assistance. In practice, an inquiry should be done **only** if:

- the initial look into the report supports the suspicion of abuse, neglect or self-neglect, **and**
- the adult has refused offers of support and assistance, **and**
- the adult's ability to understand the services being offered is in question, **and**
- the agency needs more information.

8.3.2 INQUIRY PROCEDURES

In conducting an inquiry, a designated agency must make every reasonable effort to interview the adult. (s.48(1))

☑ If you need assistance with an inquiry into financial abuse, contact the Public Guardian and Trustee.

If anyone, including the adult, denies entry to the premises where the adult is, and it is necessary to get in to interview the adult, the designated agency may apply to the court for an order. (s.49(1)) (See Appendix 4: Getting a Court Order)

In addition to interviewing the adult, the designated agency **may**:

- interview the adult's spouse, near relatives, friends or anyone else who may assist in the inquiry, and
- obtain any information that the circumstances require from:
  - a health care provider who has examined the adult
  - any agency that provides or has provided health or social services to the adult, and
  - any person who manages the adult's financial affairs, business or assets. (s.48(2))

8.3.3 INQUIRY GUIDELINES

1. **Use the guiding principles of the legislation to guide your actions.**
2. **Meet in person with the adult if possible.** Conduct the interview where the person feels physically and emotionally safe and comfortable. It may be important to enter the place where the adult lives in order to fully understand the situation.
3. **If you believe that a criminal offence has been committed, you must report it to the police.** In these situations, work in cooperation with the police to minimize interference with the criminal investigation. (See Appendix 2: Reporting a Criminal Offence)
4. **Whenever possible get the adult's permission before approaching others for information.**
5. **Obtain all the information you need** in order to determine if there is abuse, neglect or self-neglect and if the adult is incapable of understanding the support and assistance being offered.
6. **Keep the adult informed throughout the inquiry.**

🗁 A designated agency receives a report about Mr. Robillard, a 75- year-old man living in a dilapidated house with no heat or light. The initial look into the report shows that his house has just been sold. The proceeds have been paid into his daughter's bank account. She told a neighbour that once she had the money she would be gone and her father would have to look out for himself.

When the designated agency contacts Mr. Robillard, he declines any offers of assistance. He has no cash and knows nothing of his financial affairs because they have been handled by his daughter.

The designated agency decides to conduct an inquiry.

9. THE NEXT STEP

The Act says that at the conclusion of an inquiry, a designated agency **may** do any of the following:

- take no further action
- refer the adult to available services
- report the situation to the Public Guardian and Trustee or other agency
- assist the adult in making a representation agreement
- apply for a court order that the suspected abuser stay away from the adult. (See Appendix 4: Getting a Court Order)
- apply to the court for a maintenance order under the *Family Relations Act.* (See Appendix 4: Getting a Court Order)
- prepare a support and assistance plan. (s.51(1))

📖 A **support and assistance plan** is a formal plan specifying the type of support and assistance that is to be provided to the adult if an inquiry reveals that an adult has been abused, neglected or self-neglected, and appears incapable of making decisions about the services offered.

9.1 If further intervention <u>is not</u> needed

If there is no evidence of abuse, neglect or self-neglect, or if the adult is capable of making decisions and is prepared to live with abuse or neglect, no further action is required. However, you may offer support and assistance if appropriate. You may report the situation to the Public Guardian and Trustee if, for example, a representative is not fulfilling the responsibilities set out in the representation agreement.

9.2 If further intervention <u>is</u> needed

If there is evidence of abuse, neglect or self-neglect and the adult appears to be incapable of making decisions about not accepting support and assistance, then further intervention will probably be necessary. At this point you should record the support and assistance you have been offering the adult.

In keeping with the guiding principles of the Act, you will want to intervene only to the extent necessary and to respect the wishes of the adult involved.

9.2.1 SUPPORT AND ASSISTANCE PLANS

Plans that set out support and assistance for people are not new. They may be called personal service plans, individual program plans or care plans. (A suggested form is in Appendix 7)

A support and assistance plan specifies the type of support and *assistance needed* by the adult **if an inquiry reveals that an adult has been abused, neglected or self-neglected and may be mentally incapable of deciding not to accept services that have been offered.**

9.2.2 GUIDELINES FOR DEVELOPING A SUPPORT AND ASSISTANCE PLAN

1. **Use the guiding principles of the legislation to guide your actions.**
2. **Involve the adult** to the greatest extent possible in the development of the plan.
3. **Communicate with the adult** in a way that is appropriate to his or her skills and abilities.
4. **Encourage family, friends and advocates** identified by the adult to be involved in developing the plan.
5. **Consider the reason for choosing each option** identified in the plan and why these options are the least intrusive possible.
6. **Clearly document the support and assistance plan.** Each plan should be tailored to meet the specific needs and wishes of the adult.
7. **Be aware that people who are abusive** often want to be involved in such planning, putting the adult at greater risk.
8. **Develop the plan in consultation** with other agencies and individuals.
9. **If the plan proposes major or minor health care,** the procedures for obtaining consent for health care that are set out in the *Health Care (Consent) and Care Facility (Admission) Act* must be followed.

> 🗁 A designated agency has determined that Mrs. Jones seems incapable and is being financially and physically abused by her son. Mrs. Jones' support and assistance plan includes:
>
> - filing a police report to start a criminal investigation
> - removing her son from the home, and applying for a no-contact order
> - a review of her financial situation and application for benefits to which she is entitled.

9.2.3 WHAT GOES INTO A SUPPORT AND ASSISTANCE PLAN?

The plan may include information about:

- services or supports to be provided to the adult, by whom and for how long, such as:
  - peer support, friendly visiting and advocacy
  - health, social, recreational, educational, vocational or residential services
  - admission to a care facility or hospital
  - supervision in a particular setting
  - protection of financial assets (the Public Guardian and Trustee can assist in situations where there is no representative or committee and there is a concern about the security of assets)
  - application to the court for an order that a particular person stay away from the adult for a time (See Appendix 4: Getting a Court Order)
  - provision of maintenance, which could involve an application to the court under the *Family Relations Act* (See Appendix 4: Getting a Court Order)
- the person primarily responsible for implementing and monitoring the plan
- an outline of the process and timelines for follow-up and review

9.3 If the adult accepts the support and assistance plan

If the adult accepts the support and assistance plan, then the designated agency proceeds with implementing the plan. This will involve working with the adult, the adult's family, friends and service providers, and with other agencies in the community.

A person might agree to some, but not all of the services offered in the plan. The designated agency should go ahead with those parts that have been accepted, if possible.

9.4 If assistance is not accepted

If the adult does not accept the services proposed in the plan, there may be an explanation:

- Is the plan inappropriate?
- Does the adult have enough information?
- Was the adult involved in the development of the plan?
- Did the adult need more time to consider the plan?

- Would more visits with the adult have helped?

9.4.1 ADULTS WHO SEEM CAPABLE

If the adult seems capable and is not willing to accept assistance, you must respect this decision and take no further action. Leave the door open should the adult decide to accept assistance in the future.

9.4.2 ADULTS WHO MAY BE INCAPABLE

If all possible explanations have been ruled out, the adult seems incapable of deciding not to accept the plan and obtaining a court order will resolve the situation, then the designated agency may ask the Public Guardian and Trustee to arrange for an assessment to determine whether the person is incapable of deciding not to accept support and assistance. (See Appendix 3: Assessments of Incapability)

9.5 If an adult is found to be incapable

If the assessment finds that the adult is incapable of deciding not to accept the services proposed in the support and assistance plan, the designated agency should determine if the adult has a representation agreement.

Some representation agreements come into effect upon a finding of incapability. If this is the case, the representative may have authority to make decisions on behalf of the adult. Further action to obtain support and assistance may be unnecessary.

Take care to ensure that the representative is not the person suspected of abuse or neglect or is not closely associated with the abuser. If you find this to be so, you should report the situation to the Public Guardian and Trustee who has authority to monitor representatives.

If the adult is found to be incapable and there is no representative or anyone else who might assist, such as a court-appointed committee, a designated agency can apply to court for a support and assistance order authorizing the provision of the services proposed in the plan.

These court orders are for up to six months and can be renewed once. (See Appendix 4: Getting a Court Order)

PART IV: THE PEOPLE WHO SUPPORT THE PROCESS

10. COMMUNITY RESPONSE NETWORKS

10.1 Role of a Community Response Network

A Community Response Network's role is to ensure a **coordinated response** to adult abuse, neglect and self-neglect. Activities include:

- providing community education and advocacy
- supporting the staff of designated agencies in carrying out their role
- working towards prevention
- understanding the current response and developing protocols among members, and
- keeping track of how the response is working

These activities are achieved by:

- doing outreach to involve a broad cross-section of the community
- promoting communication and collaboration
- building trust

10.2 Network participants

Each community is unique, with its own mix of personalities, expertise, organizations and relationships. Community Response Networks will develop from these unique features.

Generally, Community Response Networks include:

- People who are concerned about abuse, neglect or self-neglect, and their supportive family and friends
- Community-based services and service providers, such as:
  - * home support
  - * family services
  - * spousal assault programs
  - * women's centres
  - * transition houses
  - * ethno-cultural service groups
  - * banks and other financial institutions
  - * physicians
  - * legal services
  - * associations for community living
  - * senior citizens counsellors
  - * seniors peer counsellors
  - * First Nations Groups

- Support groups, such as advocacy groups, churches, volunteer groups, peer support groups, self-help groups, service clubs, etc.
- Provincial government ministries and regional agencies or programs, such as:

  * Regional Health Boards
  * Community Health Services Societies
  * Ministry for Children and Families
  * Ministry of Human Resources
  * Alcohol and Drug
  * Mental Health
  * Police
  * Victim Services
  * Emergency Health Services
  * hospitals
  * care facilities
  * Continuing Care
  * Community Care Facilities Licensing

- Agencies designated by the Public Guardian and Trustee, drawn from the groups listed above, which will delegate to staff the responsibility of looking into reports that they receive.

10.3 Local Leadership

It takes the leadership of one or more individuals, a group or a steering committee to get a Community Response Network off the ground. Whoever plays this leadership role calls meetings, provides a meeting place, circulates minutes and helps the resources in the community to collaborate and communicate with each other.

If development of a Community Response Network has not yet begun in your community or is just getting re-organized, you may wish to identify someone to take this kind of leadership role.

10.4 Protocols

Community Response Networks will support the documentation of agency protocols and the development of protocols between both designated and non-designated agencies.

Protocols can:

- clarify the role and mandate of each participant, considering current roles, skills and experience
- establish where reports of adult abuse, neglect and self-neglect are to be made
- clarify confidentiality and protection of privacy issues

10.5 Community/government advisory committee

At the provincial level, the Abuse, Neglect and Self-Neglect Planning Group continues to support the ongoing work of Community Response Networks and designated agencies.

Some activities of the Planning Group include:

- promoting inclusion
- developing support materials to assist communities
- convening regional meetings for Community Response Network members
- encouraging greater understanding of the dynamics of abuse
- exploring links with other organizations and agencies
- contributing to the evaluation of the legislation

11. ADVOCACY: PROMOTING AND PROTECTING RIGHTS

☑ Anyone who takes on the role of supporting another person may be an advocate. An advocate could be a family member, friend, peer counsellor or member of a community organization. Support from family, friends and advocates may need to be supplemented by legal advocacy to protect the legal rights of an abused or neglected adult.

11.1 The advocate's role

The **assistance of a trusted friend or relative** can be of tremendous value to an adult who is experiencing abuse, neglect or self-neglect. That person can assist the adult in understanding the support that is being offered, and might support the adult to make their own decisions. The advocate can look out for the interests of the adult, identify services and resources that may be of benefit, and keep track of how they are working.

11.2 How advocates can support and assist adults

Advocates can help in many ways. Wherever the Act provides a role for friends, an advocate may also assume that role.

- **Support and assistance plans**:
  When explaining a support and assistance plan to an adult, the staff of a designated agency may allow any friends or relatives who accompany the adult to assist the adult in understanding the plan. (s.53(3)(b))

- **Incapability assessments**:
  A person who is doing an assessment to determine whether an adult is incapable of deciding not to accept a support and assistance plan must consult to the greatest extent possible with any available relatives and friends.

- **Court hearings**:
  If an adult has declined services offered in a support and assistance plan and has been assessed as incapable of making that decision, there may be a court hearing to determine whether those services should be provided without the adult's agreement. At that hearing, any person who is supporting the adult is entitled to be heard. (s.55(1)(c))

11.3 Legal advocacy

Sometimes protection of the legal rights of adults requires legal advocacy. Legal advocacy, by someone with special training, is an important protection.

The adult has the right to retain a lawyer. As well, someone from a legal advocacy organization may provide legal information and advice.

> 🗁 Jane Brown is going to meet with a designated agency so the worker can go over her support and assistance plan. Jane has been working with an advocate for several years. She asks her advocate to be with her at that meeting to assist her in understanding the plan.
>
> If Jane decides not to accept the plan and an assessment then finds her incapable of making that decision, the support of family, friends and advocates can be supplemented with legal information and legal advocacy.

APPENDIX 1

DEALING WITH EMERGENCIES

IDENTIFYING EMERGENCIES

Identifying a situation as an emergency must be done with extreme care. An emergency response can infringe on an adult's rights, as it does not require an adult's consent or authority from the court.

It is an emergency when an adult:

- is apparently abused, neglected or self-neglected, **and**
- seems incapable, **and**

it is necessary to act without delay to:

- save the adult's life
- prevent serious physical or mental harm, or
- protect the adult's assets from significant damage or loss. (s.59(1))

> 🗁 A designated agency is called to Mr. McIntyre's house by a senior citizen's counsellor who has not been able to contact the elderly occupant for days. Mr. McIntyre's dogs have not been fed and flyers are piled at his front door. A person from the designated agency, accompanied by the police, looks through windows and sees Mr. McIntyre lying on the floor, apparently unconscious, next to an overturned chair and a box of light bulbs. The designated agency staff uses her powers under the Act to enter the house to take Mr. McIntyre to the hospital.

EMERGENCY PROCEDURES

In an emergency, someone from a designated agency may, without the adult's agreement:

- enter the premises where the adult is, using any reasonable force that is necessary in the circumstances
- take the adult from the premises to a safe place
- give emergency health care
- inform the Public Guardian and Trustee if the adult's financial affairs need immediate attention
- take any other emergency measure necessary to protect the adult from harm (s.59(2))

GUIDELINES

These guidelines have been developed in keeping with the principle of intervening as effectively as possible, and with no more intrusion than necessary.

1. An emergency is a serious and immediate danger to an adult's life, health or property.
2. More than one person should be involved in the determination of an emergency situation.
3. The primary focus of emergency assistance is to ensure the immediate safety and well-being of the adult.
4. Any emergency intervention must be short-term and deal with the emergency situation only.
5. Once the immediate danger is removed, the adult should be involved in determining any further response. If necessary, an inquiry may be commenced.
6. An emergency may be identified at the initial reporting stage or at any point in the process of offering or providing support and assistance.
7. The reason for identifying a situation as an emergency and the actions taken should be well documented.

Since police, fire and ambulance services are likely to be the primary agencies called in an emergency, these agencies are important members of the Community Response Network. A protocol can be developed with these agencies, in particular with the police, to ensure that there is a common understanding of authority and responsibility in an emergency situation.

If an adult's financial assets are at risk, the Public Guardian and Trustee will be able to move quickly in an emergency.

APPENDIX 2

REPORTING CRIMINAL OFFENCES

Police are responsible for criminal investigations. Protocols should be developed to outline the relationships between the police and designated agencies when responding to abuse, neglect or self-neglect. Clarification is needed especially with regard to roles and responsibilities in the inquiry process and how police can assist designated agencies who have to enter premises where access has been denied.

The *Adult Guardianship Act* says that if a person working for a designated agency has reason to believe that a criminal offence has been committed against an adult about whom a report of abuse or neglect is made, the designated agency must report the facts to the police. (s.50)

FORMS OF ABUSE AND NEGLECT THAT CONSTITUTE CRIMINAL CODE OFFENCES

Many actions identified as abuse or neglect under Part 3 of the *Adult Guardianship Act* may be offences under the Criminal Code. For example:

- **physical or sexual abuse** might be an offence of assault, assault causing bodily harm, aggravated assault, sexual assault or aggravated sexual assault
- **psychological or emotional abuse**, depending on the circumstances, might be addressed by the assault sections dealing with threats and intimidation
- **financial exploitation** could be theft, misuse of a power of attorney, breach of trust, forgery, fraud, or extortion
- **neglect** might be a contravention of the Criminal Code section that imposes a duty to provide the necessities of life to a person under one's charge if that person is unable, by virtue of age, illness or any other cause, to care for him or herself.

GUIDELINES FOR REPORTING

Capable adults have a right to decide to remain in abusive situations.

Decisions about the timing for reporting criminal offences must be made with consideration of:

- the safety of the adult
- the adult's wishes
- sensitivity to different factors that impact long term relationships.

Agencies should work cooperatively with the police to minimize interference with the collection of evidence.

APPENDIX 3

ASSESSMENTS OF INCAPABILITY

☑ Incapability assessments are to be undertaken only as a last resort

The Public Trustee has facilitated the development of guidelines for the assessment of incapability. Some of these guidelines are outlined below. In addition, there will be regulations enacted prior to February 28, 2000.

ARRANGING FOR AN ASSESSMENT

An assessment of incapability may be arranged only if **all** these conditions apply:

- an inquiry has been done and there is evidence of abuse, neglect or self-neglect
- a support and assistance plan has been developed
- the adult needs and would benefit from the services in the plan
- the adult has not accepted the services proposed in the plan, and
- the adult appears to be incapable of making that decision.

If all these conditions are met, the agency may ask the Public Guardian and Trustee to arrange for an assessment of incapability, if it appears that the situation can be resolved through a Support and Assistance Order. Such orders are only valid for six months and can be renewed once.

WHO WILL DO THE ASSESSMENT?

Assessors will be authorized by the Public Guardian and Trustee.

When asked to arrange for an assessment of incapability, the Public Guardian and Trustee may provide assistance if required. Wherever possible, assessors chosen will:

- have an understanding of people with the particular illness, disability, cultural background or situation of the adult concerned
- be located in the community where the adult lives, or reasonably nearby, and
- have experience with abused, neglected and self-neglected adults.

A team of assessors (i.e., two or more people) will be assigned.

WHAT ASSESSORS WILL DO

The goal of the assessment of incapability is to determine whether the adult is incapable of deciding not to accept a support and assistance plan.

WHAT IS THE TEST OF INCAPABILITY?

When an assessor is deciding whether the adult is incapable, the assessor must base the decision on whether the adult understands:

- the services described in the support and assistance plan,
- the reason the services are being offered to the adult, and
- the consequences to the adult of not accepting the services.

INFORMATION FOR ASSESSORS

The Incapability Assessment Steering Committee that has community, government and service provider representation, has produced best practice guidelines for doing assessments of incapability under this part of the legislation.

These guidelines are available from the Public Guardian and Trustee.

APPENDIX 4

GETTING A COURT ORDER

A LAST RESORT

The *Adult Guardianship Act* is not about going to court. It is about respecting adults' wishes and working with people who need assistance, to give them only as much support and assistance as they need and want.

But sometimes an adult may need to be protected from harm. Sometimes it will be necessary to ask the court to make an order that can be enforced. The *Adult Guardianship Act* allows designated agencies to make applications to the court for:

- an order authorizing support and assistance, despite the adult's decision not to accept those services and after the adult has been found incapable of making that decision
- an order allowing entry into any premises to interview an adult (as part of an inquiry by a designated agency)
- an order preventing a suspected abuser from contacting the adult
- an order requiring a family member to pay maintenance to an adult.

These applications are made in Provincial Court (Family Division). The forms and process to be used will be available when the legislation comes into effect.

IF SOMEONE PREVENTS ACCESS

If you are conducting an inquiry into suspected abuse, neglect or self-neglect of an adult, you must make every reasonable effort to interview the adult. This should be a face-to-face interview.

If anyone, including the adult, denies you entry to the premises where the adult is, and you believe it is necessary to get in to interview the adult, your agency may apply to the court for an order. (s.49(1))

You should be prepared to give the court:

- your grounds for believing the adult is abused, neglected or self-neglected and is unable to obtain support and assistance
- the reasons it is important to interview the adult in person, and
- details of how and why entry was denied.

It is an offence to obstruct an inquiry by preventing access to an adult or by any other means.

WHAT THE COURT CAN AUTHORIZE

The court can authorize:

- someone from a designated agency to enter the premises and interview the adult, and
- a health care provider to enter the premises to examine the adult to determine whether health care should be provided.

IF THERE IS NO TIME FOR A COURT ORDER

If it will take too long to get a court order, and you believe the adult could be harmed in the meantime, you can go instead to a Justice of the Peace. A Justice of the Peace can issue a warrant authorizing someone from a designated agency to enter the premises to interview the adult. (s.49(3))

There may be times when even taking time to meet with a Justice of the Peace will put the adult at too great a risk. Emergency assistance may be provided under section 59 of the Act. (See Appendix 1)

The emergency provisions should be used when an adult is apparently abused, neglected or self-neglected, in grave danger and thought to be unable to get out of the situation.

Note that a Justice of the Peace cannot allow a health care provider to go in and examine the adult. Only the court can authorize this.

SUPPORT & ASSISTANCE ORDERS

When an adult has decided not to accept the services proposed in a support and assistance plan, and has been assessed and found incapable of making that decision, a designated agency may decide to go to court. The court can authorize support and assistance to be provided without the adult's consent.

When applying for a support and assistance order, a designated agency may also ask for any other orders necessary to support the adult: for example, a "no contact" order, or *a Family Relations Act* maintenance order.

A designated agency completes a support and assistance plan for Miss Young, which she decides not to accept. Eventually, after many discussions with Miss Young and her family, an assessment is carried out. The assessors of incapability find that Miss Young is incapable of deciding not to accept the support and assistance plan. The matter is presented to court and the court orders that the support and assistance be provided, despite Miss Young's refusal.

APPLYING FOR A SUPPORT AND ASSISTANCE ORDER

The application must be accompanied by:

- a copy of the support and assistance plan
- a statement of the adult's wishes, if they are known
- a report of the assessment indicating that the adult is incapable of deciding not to accept the proposed services.

In addition, the designated agency provides the court with:

- results of the inquiry showing evidence of abuse, neglect or self-neglect, and showing that the adult is unable to stop the abuse or neglect because of a condition that affects the adult's ability to make decisions
- details of how the plan was communicated to the adult, showing that the communication was appropriate to his or her skills and abilities and that relatives, friends or an advocate were allowed to assist the adult in understanding the plan, and
- any other information that may assist the court in making a decision.

If other orders are being requested along with the support and assistance order, then supporting information for these orders will be needed as well.

Certain people must be informed of the court application. The *Adult Guardianship Act* says that within 72 hours of filing an application for a support and assistance order, a designated agency must serve a copy of the application and notice of hearing on:

- the adult involved
- the adult's spouse or, if there is no spouse, then the nearest relative in Canada
- the person in charge of any hospital, facility or residence where the adult resides or receives care
- the Public Guardian and Trustee
- the adult's representative, or court-appointed committee
- any person chosen under Section 16 of *the Health Care (Consent) and Care Facility (Admission) Act* to make a health care decision for the adult
- any person against whom a "no contact" order or maintenance order is sought, and
- any other person that the court directs. (s.54(2))

At the hearing, the designated agency must show the court that the adult needs and would benefit from the support and assistance being recommended. The following individuals or groups are entitled to be heard at the court hearing:

- the adult
- anyone who was given notice of the hearing
- anyone who is supporting and assisting the adult
- any person from the designated agency, and
- any other person whom the court agrees to hear.

When the court hears an application for a support and assistance order, it considers whether or not the adult:

- is abused or neglected
- is unable to stop the abuse or neglect because of an illness, disease, injury or other condition that affects the adult's ability to make decisions about the abuse or neglect, and
- needs and could benefit from the services suggested in the support and assistance plan. (s.56(1))

If the court is satisfied that the criteria are met, then the court may do any of the following:

- order that support and assistance be provided without the adult's consent
- order that an adult child pay maintenance for the adult (under the *Family Relations Act*)
- order that a person who has abused the adult:
    - move out of and stay away from the premises where the adult lives (unless that person is the owner or lessee of the premises)
    - not visit, communicate with, harass or interfere with adult
    - not have any contact or association with the adult or the adult's assets, business or financial affairs, or
    - comply with any other restriction of relations with the adult.
- order a person who has abused or neglected the adult to pay for, or contribute to, the adult's maintenance or services to be provided for the adult or
- make any other order the court thinks is appropriate and in the best interests of the adult. (s.56(3))

☑ When it makes an order for support and assistance, the court must choose the most effective but the least intrusive way of providing that service. (s.56(5))

A court order must specify the type of support and assistance that is to be provided to the adult, including any of the following:

- health care
- social, recreational, educational, vocational or other similar services
- supervised residence in a care home, the adult's home or some other person's home, for a specified period of up to six months
- services to ensure that the adult's financial affairs, business or assets are properly managed and protected, including any services that may be offered by the Public Guardian and Trustee, for a specified period of up to six months
- admission to a care facility, hospital or other facility for a specified period of up to six months. (s.56(4))

Support and assistance orders end after six months, unless an earlier date is specified. (s.56(7)) If the court makes an order, the designated agency must serve a copy of the order on the same people who were served with notice of the application. (s.56(6))

CHANGING OR CANCELLING SUPPORT AND ASSISTANCE ORDERS

Situations can change rapidly. Even after a support and assistance order has been obtained, the need for the order must be reviewed anytime it becomes apparent that circumstances have changed. The designated agency is required to review the need for the order if:

- it has reason to believe that any of the adult's needs have changed or
- the adult's ability to make decisions about support and assistance has changed significantly or
- the adult, or someone speaking on the adult's behalf, asks for a review and has a substantial reason for asking. (s.57(1))

If a significant change has occurred, then the agency must apply to the court to have the order changed or canceled. (s.57(2))

Notice should be given to everyone who was notified of the original application.

RENEWING SUPPORT AND ASSISTANCE ORDERS

A support and assistance order can be renewed once for up to six months. This means that the same support and assistance order can last, at the most, for one year. After this time, a new process must begin.

To get a renewal of an order, the designated agency must show the court that the adult still requires the support and assistance outlined in the plan and that the adult is still incapable.

Everyone who was notified of the original application is to be given notice of an application to renew an order.

INTERIM ORDERS TO PREVENT CONTACT

An interim order to prevent contact can sometimes be used in situations of imminent risk during or after an inquiry.(s.51 (1)(e)) Because this is an "interim" order, it can be made only for up to 30 days. The order is directed at the person apparently responsible for abusing the adult and usually will prohibit most forms of contact with the abused adult. It can be used before a support and assistance plan is developed or an assessment of incapability is conducted.

An agency applying for an interim order must establish that there is reason to believe:

- that the person at whom the order is directed has abused the adult, and
- the adult is unable to stop the abuse because of an illness, disease, injury or other condition that affects the adult's ability to make decisions about the abuse or neglect.

To do this, the agency should provide the court with:

- a copy of the report of the inquiry (or an interim report) detailing the abuse and the adult's inability to stop it
- evidence that the person to be named in the order has abused the adult
- the reasons why removing the abuser is the appropriate option in this situation
- a statement of the adult's wishes, if possible, and
- a copy of a support and assistance plan, if there is one.

A copy of the application must be served on the adult and on the person to be named in the order within 72 hours after filing an application with the court for an interim "no contact" order.

LONG-TERM ORDERS TO PREVENT CONTACT

As part of a support and assistance order, the court can order an abuser to move out of the premises where the adult lives or to have no contact with the adult.

The order will terminate six months after it is made, or on an earlier date the court specifies. (s.56(7)) The order must be reviewed if circumstances change. (s.57) It can be renewed, but only once. (s.57(5))

A person against whom a "no contact" order is made has the right to ask the court to change or cancel the order. If that happens, the court could decline to change the order, change or cancel the order, or make any other order considered to be in the adult's best interests. (s.58)

If this order is sought as part of a support and assistance order, the evidence required will be similar to that required for an interim order, but a higher order of proof of the abuse will be required. That is, the court must find that the person "has abused" the adult, and not just that "there is reason to believe the person has abused the adult".

The application must be accompanied by:

- a support and assistance plan prepared by the designated agency, which includes a statement of the adult's wishes, if known, and
- a report of the assessment of incapability. (s.54(3))

A copy of the application must be served on the adult and on the person to be named in the order within 72 hours after filing.

ORDERS FOR MAINTENANCE OF AN ABUSED OR NEGLECTED ADULT

Adult children are obliged to support their parents in certain circumstances. These legal obligations are imposed by the *Family Relations Act.*

The *Adult Guardianship Act* permits a designated agency, after it has completed an inquiry, to apply to the court for an order under the *Family Relations Act* to require an adult child to pay maintenance for an adult. (s.51(1)(f) and s.56(3)(b)) These applications are made to the Provincial Court (Family Division).

In keeping with the principle that adults receive the most effective but least intrusive assistance and support, these are the actions a designated agency may take if an inquiry reveals that the adult needs support and an adult child may be in a position to assist:

- explain to the adult the right to apply for a maintenance order
- assist the adult in making an application to court if the adult wants assistance, and
- include a request for a maintenance order in an application for a support and assistance order.

APPEALS

A court order is not always the end of a matter. In some cases, a person who is not happy with a court order may appeal the decision to a higher court.

An order made under Part 3 of the *Adult Guardianship Act* may be appealed by:

- the adult with assistance from the adult's legal counsel
- the designated agency involved, or a legal counsel of the designated agency or
- any other person specifically mentioned in the order or affected by the order.

Note that when a notice of appeal is filed, the implementation of the original order is suspended. (s.60(5)) For example, services outlined in a support and assistance order cannot be provided – unless an emergency develops – until the appeal is decided. An appeal is made to the Supreme Court of B.C.

The time limit for bringing an appeal is 40 days beginning on the day after the order is made by the Provincial Court. The Supreme Court may extend that time in certain circumstances.

To bring an appeal you must:

- file a notice of appeal in a registry of the Supreme Court, and
- serve a copy of the notice of appeal on the parties to the proceedings in which the Provincial Court order was made (unless a Supreme Court judge orders otherwise). (s.60(3))

After a hearing, the Supreme Court may do one or more of the following:

- confirm or rescind (cancel) the Provincial Court order
- make any order the Provincial Court could have made
- direct the Provincial Court to conduct a new hearing. (s.60(6))

APPENDIX 5

OBTAINING AND DISCLOSING INFORMATION

THE DUTY OF CONFIDENTIALITY

Confidentiality and information-sharing need to be carefully considered when responding to allegations of abuse and neglect.

There are two issues to be considered:

- the right to have access to information, and
- the obligation to keep that information confidential.

The *Adult Guardianship Act* sets out these rights and obligations as they apply to designated agencies and the Public Guardian and Trustee.

The *Freedom of Information and Protection of Privacy Act* applies to public bodies generally, and to those who are funded by these bodies. Non-profit organizations and others not covered by the Act may find its provisions a useful guide.

OBTAINING INFORMATION

Wherever possible, information should be obtained from the adult involved. But sometimes it is necessary to go to other sources.

The *Adult Guardianship Act* gives designated agencies the right to any information that is necessary to enable them to carry out the roles assigned to them by the Act. (s.62(1))

Anyone who has information that a designated agency is entitled to is obligated to disclose it. (s. 62(2))

DISCLOSING INFORMATION

Wherever possible, the adult should be asked for permission to release information about himself.

Designated agencies must not disclose information they have obtained under the *Adult Guardianship Act* unless required to do so in order to perform their duties or functions under the Act.

The *Freedom of Information and Protection of Privacy Act* introduces the concept of "consistent purpose" (s.34). The rule is that information that was collected for one purpose can be disclosed if it is to be used for a consistent purpose that has a reasonable and direct connection and is necessary for performing statutory duties or for operating a program.

> Staff of a designated agency are looking into a report that Mr. Jones is abusing his wife. A second agency has been providing a home support worker who acts as a calming influence during the dinner hour. The directors of the two agencies have a discussion. They find that their purposes for gathering information about the situation are consistent and they share it.

For example, information that was initially collected for the purposes of dealing with abuse can be shared with another agency working to address that abuse. Information that was collected under a different program for other purposes, such as determining financial eligibility, cannot be regarded as a consistent purpose and should not be disclosed.

APPENDIX 6

ROLE OF THE PUBLIC GUARDIAN AND TRUSTEE

If the Public Guardian and Trustee's office receives reports of abuse, neglect or self-neglect, it will refer them to designated agencies in communities. However, the Public Guardian and Trustee also has responsibilities under the Act.

> During an inquiry, a designated agency believes Mrs. Green is at risk of losing a substantial amount of money from a bank account. The agency contacts the Public Guardian and Trustee's Intake Services. They freeze the bank account under Section 19 of the *Public Guardian and Trustee Act* while the agency completes its inquiry.

INDIVIDUAL CASES

- In emergency situations of financial abuse, the Public Guardian and Trustee can temporarily freeze an adult's assets if necessary, to protect them during an inquiry. (*Public Guardian and Trustee Act*, s.19)
- The Public Guardian and Trustee has special investigation powers under sections 17 and 18 of the *Public Guardian and Trustee Act*, which may be of value in situations of financial abuse.
- The Public Guardian and Trustee is responsible for ensuring that representatives and committees fulfill their responsibilities and may inquire into complaints regarding representatives.
- If an adult who decides not to accept a proposed support and assistance plan appears to be incapable of making that decision, the Public Guardian and Trustee may be asked to arrange for an assessment of incapability. (s. 53(5)) (See Appendix 3: Assessments of Incapability)

IN THE COMMUNITY

The Public Guardian and Trustee will designate the agencies that implement Part 3 of the *Adult Guardianship Act*, and is promoting and supporting the ongoing development of Community Response Networks.

Appendix 7

Support and Assistance Plan

Adult Guardianship Act: Part 3 Support and Assistance for Abused and Neglected Adults

(This form may be downloaded from the Public Guardian and Trustee's web site: www.trustee.gov.bc.ca)

You can use this form when:

- developing a support and assistance plan,
- requesting an incapability assessment in anticipation of an application to the Court for a support and assistance order.

SECTION 1 - DESIGNATED AGENCY INFORMATION

To be completed by the person developing the support and assistance plan.

1. Date:

2. Name of the adult for whom the plan was developed:

3. How was the adult involved in the development of this plan?

4. Name of the person developing the Support and Assistance Plan:

   Position: Program/Agency:

   Address:

   Phone Number: Fax Number:

   E-mail Address:

5. Name of contact person if different than above:

   Position: Program/Agency:

   Address:

   Phone Number: Fax Number:

   E-mail Address:

SECTION 2 - PERSONAL INFORMATION AND CONTACT PEOPLE

2.1 Personal Information:

Name of adult:

Last Name | First Name | Middle Initial

Address (or location where the person can be found):

Apt. # | Street # | Street | City | Postal Code

Contact Person (if other than the adult)

Name | Relationship to the Adult

Address

Home Phone | Work Phone

Adult's home phone number:

Other phone numbers where the adult can be contacted:

Age:

Date of Birth:

Day | Month | Year

Adult's Personal Health Number

Also known by these other names:

Does the adult speak and understand English?

If not, with what language or form of communication is the adult most comfortable?

What communication supports does the adult require? (e.g., sign language, a Bliss Board, interpreter)

2.2 Living Situation – check one

☐ Adult Lives Alone

☐ Adult Lives With Spouse (Name of Spouse):_____

☐ Adult Lives With Someone Other Than Spouse

Name | Relationship | Home Phone | Alternate Phone

☐ Adult Lives in a Facility

Facility Name | Contact Person | Title | Phone Number

SECTION 3 - REASON FOR THE SUPPORT & ASSISTANCE PLAN

3.1 What is the abuse, neglect or self-neglect the adult is experiencing?

3.2 Is there an illness, disease, injury or other condition that affects the adult's ability to make decisions about the abuse or neglect?

3.3 Name of Physician: _____

Phone Number: _____

SECTION 4 - SIGNIFICANT PEOPLE IN THE ADULT'S LIFE

4.1 Substitute Decision-Makers

Does the adult have any of the following substitute decision-makers:

- Representative, in a Representation Agreement — Yes ☐ No ☐ Unknown ☐
- Attorney, under a Power of Attorney — Yes ☐ No ☐ Unknown ☐
- Committee of Estate — Yes ☐ No ☐ Unknown ☐
- Committee of Person — Yes ☐ No ☐ Unknown ☐
- Trustee, under Pension Trusteeship — Yes ☐ No ☐ Unknown ☐
- Other (please specify) _____

4.2 If the adult has more than one substitute decision-maker, please provide full information for each, including area of decision making.

Name of substitute decision maker:	Name of substitute decision maker:
Address:	Address:
Telephone Number: Home: Work:	Telephone Number: Home: Work:
Relationship to the Adult:	Relationship to the Adult:
Area of Decision Making:	Area of Decision Making:
Triggering Event in a Representation Agreement:	Triggering Event in a Representation Agreement:

4.3 Identification of Supportive Family, Friends, Advocates and Service Providers:

Name	Relationship to Adult & Characteristics of the Relationship	Address	Telephone Numbers
1.			Home: Work:
2.			Home: Work:
3.			Home: Work:
4.			Home: Work:

SECTION 5 - GETTING TO KNOW THE ADULT

5.1 What do you know about the adult's history?

5.2 What are the adult's strengths and accomplishments?

5.2 What are the adult's known interests, values and beliefs?

5.3 What are the adult's wishes with regard to this situation?

SECTION 6 - SUPPORT AND ASSISTANCE

6.1 Who was involved in the development of the support and assistance plan?

6.2 Description of support and assistance services offered?

Description of service & length of time service offered	Reason for offering the service to the adult	Consequences to the adult of refusing the service	Person responsible for implementation & follow-up

SECTION 7 - CONCLUSIONS

Please check as appropriate and provide any additional information in the space provided below.

7.1 Development & Communication of the Plan – tick all that apply

☐ The adult was involved to the greatest extent possible in the development of the plan.

☐ This plan has been fully explained to the adult's supporters and to the adult in a manner appropriate to the adult's skills and abilities.

7.2 Outcome – tick one

☐ The current plan was accepted by the adult and implemented.

☐ The plan was ***not accepted*** but the situation is resolved.

☐ The adult did not accept the plan and is believed to be capable of making this decision.

☐ The adult did not accept the plan, is believed to be incapable and there is abuse, neglect or self neglect as defined in the *Adult Guardianship Act*, Part 3. A request is being forwarded to the Public Guardian and Trustee for an assessment of incapability to determine if a Court Order for support and assistance should be pursued.

Additional comments …

Name of person completing the form:

_____

Position:

_____

Signature:

_____